

By: Representative Moak

To: Apportionment and
Elections; Judiciary B

HOUSE BILL NO. 446

1 AN ACT TO AMEND SECTION 23-15-193, MISSISSIPPI CODE OF 1972,
 2 TO DELETE JUSTICE COURT JUDGE AS ONE OF THE OFFICES TO BE ELECTED
 3 AT THE GENERAL STATE ELECTION; TO AMEND SECTION 23-15-297,
 4 MISSISSIPPI CODE OF 1972, TO DELETE JUSTICE COURT JUDGE CANDIDATES
 5 FROM THE LIST OF CANDIDATES REQUIRED TO PAY A FEE UPON ENTERING AN
 6 ELECTION FOR PARTY NOMINATION; TO AMEND SECTION 23-15-359,
 7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THIS SECTION, WHICH
 8 REQUIRES THE NAMES OF ALL CANDIDATES NOMINATED FOR OFFICE TO BE
 9 PRINTED ON THE BALLOT, SHALL NOT APPLY TO JUSTICE COURT JUDGES; TO
 10 AMEND SECTION 23-15-973, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 11 JUSTICE COURT JUDGES SHALL HAVE THE RIGHT TO ADDRESS THE PEOPLE
 12 DURING COURT TERMS; TO AMEND SECTIONS 23-15-975 AND 23-15-977,
 13 MISSISSIPPI CODE OF 1972, TO INCLUDE JUSTICE COURT JUDGES UNDER
 14 THE NONPARTISAN JUDICIAL ELECTION ACT; TO AMEND SECTION
 15 23-15-1015, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUSTICE
 16 COURT JUDGES SHALL BE ELECTED AT THE SAME TIME AS CHANCERY AND
 17 CIRCUIT JUDGES; TO AMEND SECTION 23-15-197, MISSISSIPPI CODE OF
 18 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 19 PURPOSES.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 **SECTION 1.** Section 23-15-193, Mississippi Code of 1972, is
 22 amended as follows:

23 23-15-193. At the election in 1995, and every four (4) years
 24 thereafter, there shall be elected a Governor, Lieutenant
 25 Governor, Secretary of State, Auditor of Public Accounts, State
 26 Treasurer, Attorney General, three (3) public service
 27 commissioners, three (3) Mississippi Transportation Commissioners,
 28 Commissioner of Insurance, Commissioner of Agriculture and
 29 Commerce, Senators and members of the House of Representatives in
 30 the Legislature, district attorneys for the several districts,
 31 clerks of the circuit and chancery courts of the several counties,
 32 as well as sheriffs, coroners, assessors, surveyors and members of
 33 the boards of supervisors * * * and constables, and all other
 34 officers to be elected by the people at the general state
 35 election. All * * * officers shall hold their offices for a term



36 of four (4) years, and until their successors are elected and
37 qualified. The state officers shall be elected in the manner
38 prescribed in Section 140 of the Constitution.

39 **SECTION 2.** Section 23-15-197, Mississippi Code of 1972, is
40 amended as follows:

41 23-15-197. (1) Times for holding primary and general
42 elections for congressional offices shall be as prescribed in
43 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

44 (2) Times for holding elections for the office of judge of
45 the Supreme Court shall be as prescribed in Section 23-15-991 and
46 Sections 23-15-974 through 23-15-985.

47 (3) Times for holding elections for the office of circuit
48 court judge, the office of chancery court judge and the office of
49 justice court judge shall be as prescribed in Sections 23-15-974
50 through 23-15-985 and Section 23-15-1015.

51 (4) Times for holding elections for the office of county
52 election commissioners shall be as prescribed in Section
53 23-15-213.

54 **SECTION 3.** Section 23-15-297, Mississippi Code of 1972, is
55 amended as follows:

56 23-15-297. Any candidate * * * entering the race for party
57 nominations for office shall first pay to the proper officer as
58 provided for in Section 23-15-299 for each primary election the
59 following amounts:

60 (a) Candidates for Governor not to exceed Three Hundred
61 Dollars (\$300.00).

62 (b) Candidates for Lieutenant Governor, Attorney
63 General, Secretary of State, State Treasurer, Auditor of Public
64 Accounts, Commissioner of Insurance, Commissioner of Agriculture
65 and Commerce, State Highway Commissioner and State Public Service
66 Commissioner, not to exceed Two Hundred Dollars (\$200.00).

67 (c) Candidates for district attorney, not to exceed One
68 Hundred Dollars (\$100.00).



69 (d) Candidates for State Senator, State Representative,
70 sheriff, chancery clerk, circuit clerk, tax assessor, tax
71 collector, county attorney, county superintendent of education and
72 board of supervisors, not to exceed Fifteen Dollars (\$15.00).

73 (e) Candidates for county surveyor, county
74 coroner * * * and constable, not to exceed Ten Dollars (\$10.00).

75 (f) Candidates for United States Senator, not to exceed
76 Three Hundred Dollars (\$300.00).

77 (g) Candidates for United States Representative, not to
78 exceed Two Hundred Dollars (\$200.00).

79 **SECTION 4.** Section 23-15-359, Mississippi Code of 1972, is
80 amended as follows:

81 23-15-359. (1) The ballot shall contain the names of all
82 party nominees certified by the appropriate executive committee,
83 and independent and special election candidates who have timely
84 filed petitions containing the required signatures. A petition
85 requesting that an independent or special election candidate's
86 name be placed on the ballot for any office shall be filed as
87 provided for in subsection (3) or (4) of this section, as
88 appropriate, and shall be signed by not less than the following
89 number of qualified electors:

90 (a) For an office elected by the state at large, not
91 less than one thousand (1,000) qualified electors.

92 (b) For an office elected by the qualified electors of
93 a Supreme Court district, not less than three hundred (300)
94 qualified electors.

95 (c) For an office elected by the qualified electors of
96 a congressional district, not less than two hundred (200)
97 qualified electors.

98 (d) For an office elected by the qualified electors of
99 a circuit or chancery court district, not less than one hundred
100 (100) qualified electors.



101 (e) For an office elected by the qualified electors of
102 a senatorial or representative district, not less than fifty (50)
103 qualified electors.

104 (f) For an office elected by the qualified electors of
105 a county, not less than fifty (50) qualified electors.

106 (g) For an office elected by the qualified electors of
107 a supervisors district or justice court district, not less than
108 fifteen (15) qualified electors.

109 (2) Unless the petition required above shall be filed as
110 provided for in subsection (3) or (4) of this section, as
111 appropriate, the name of the person requested to be a candidate,
112 unless nominated by a political party, shall not be placed upon
113 the ballot. The ballot shall contain the names of each candidate
114 for each office, and such names shall be listed under the name of
115 the political party such candidate represents as provided by law
116 and as certified to the circuit clerk by the State Executive
117 Committee of such political party. In the event such candidate
118 qualifies as an independent as herein provided, he shall be listed
119 on the ballot as an independent candidate.

120 (3) Petitions for offices described in paragraphs (a), (b),
121 (c) and (d) of subsection (1) of this section, and petitions for
122 offices described in paragraph (e) of subsection (1) of this
123 section for districts composed of more than one (1) county or
124 parts of more than one (1) county, shall be filed with the State
125 Board of Election Commissioners by no later than 5:00 p.m. on the
126 same date by which candidates for nominations in the political
127 party primary elections are required to pay the fee provided for
128 in Section 23-15-297, Mississippi Code of 1972.

129 (4) Petitions for offices described in paragraphs (f) and
130 (g) of subsection (1) of this section, and petitions for offices
131 described in paragraph (e) of subsection (1) of this section for
132 districts composed of one (1) county or less, shall be filed with
133 the proper circuit clerk by no later than 5:00 p.m. on the same



134 date by which candidates for nominations in the political party
135 elections are required to pay the fee provided for in Section
136 23-15-297; provided, however, that no petition may be filed before
137 January 1 of the year in which the election for the office is
138 held. The circuit clerk shall notify the county commissioners of
139 election of all persons who have filed petitions with such clerk.
140 Such notification shall occur within two (2) business days and
141 shall contain all necessary information.

142 (5) The commissioners may also have printed upon the ballot
143 any local issue election matter that is authorized to be held on
144 the same date as the regular or general election pursuant to
145 Section 23-15-375; provided, however, that the ballot form of such
146 local issue must be filed with the commissioners of election by
147 the appropriate governing authority not less than sixty (60) days
148 previous to the date of the election.

149 (6) The provisions of this section shall not apply to
150 municipal elections or to the election of the offices of justice
151 of the Supreme Court, judge of the Court of Appeals, circuit
152 judge, chancellor, county court judge and justice court judge.

153 (7) Nothing in this section shall prohibit special elections
154 to fill vacancies in either house of the Legislature from being
155 held as provided in Section 23-15-851. In all elections conducted
156 under the provisions of Section 23-15-851 the commissioner shall
157 have printed on the ballot the name of any candidate who, not
158 having been nominated by a political party, shall have been
159 requested to be a candidate for any office by a petition filed
160 with said commissioner by 5:00 p.m. not less than ten (10) working
161 days prior to the election, and signed by not less than fifty (50)
162 qualified electors.

163 (8) The appropriate election commission shall determine
164 whether each candidate is a qualified elector of the state, state
165 district, county or county district they seek to serve, and
166 whether each candidate meets all other qualifications to hold the



167 office he is seeking or presents absolute proof that he will,
168 subject to no contingencies, meet all qualifications on or before
169 the date of the general or special election at which he could be
170 elected to office. The election commission also shall determine
171 whether any candidate has been convicted of any felony in a court
172 of this state, or has been convicted on or after December 8, 1992,
173 of any offense in another state which is a felony under the laws
174 of this state, or has been convicted of any felony in a federal
175 court on or after December 8, 1992. Excepted from the above are
176 convictions of manslaughter and violations of the United States
177 Internal Revenue Code or any violations of the tax laws of this
178 state, unless the offense also involved misuse or abuse of his
179 office or money coming into his hands by virtue of his office. If
180 the appropriate election commission finds that a candidate either
181 (a) is not a qualified elector, (b) does not meet all
182 qualifications to hold the office he seeks and fails to provide
183 absolute proof, subject to no contingencies, that he will meet the
184 qualifications on or before the date of the general or special
185 election at which he could be elected, or (c) has been convicted
186 of a felony as described in this subsection, and not pardoned,
187 then the name of such candidate shall not be placed upon the
188 ballot.

189 (9) If after the deadline to qualify as a candidate for an
190 office or after the time for holding any party primary for an
191 office, there shall be only one (1) person who has duly qualified
192 to be a candidate for the office in the general election, the name
193 of such person shall be placed on the ballot.

194 (10) The petition required by this section may not be filed
195 by using the internet.

196 **SECTION 5.** Section 23-15-973, Mississippi Code of 1972, is
197 amended as follows:

198 23-15-973. It shall be the duty of the judges of the circuit
199 court to give a reasonable time and opportunity to the candidates



200 for the office of judge of the Supreme Court, judges of the Court
201 of Appeals, circuit judge, chancellor and justice court judge to
202 address the people during court terms. In order to give further
203 and every possible emphasis to the fact that the * * * judicial
204 offices are not political but are to be held without favor and
205 with absolute impartiality as to all persons, and because of the
206 jurisdiction conferred upon the courts by this chapter, the judges
207 thereof should be as far removed as possible from any political
208 affiliations or obligations. It shall be unlawful for any
209 candidate for any of the offices mentioned in this section to
210 align himself with any candidate or candidates for any other
211 office or with any political faction or any political party at any
212 time during any primary or general election campaign. Likewise it
213 shall be unlawful for any candidate for any other office nominated
214 or to be nominated at any primary election, wherein any candidate
215 for any of the judicial offices in this section mentioned, is or
216 are to be nominated, to align himself with any one or more of the
217 candidates for the offices or to take any part whatever in any
218 nomination for any one or more of the judicial offices, except to
219 cast his individual vote. Any candidate for any office, whether
220 nominated with or without opposition, at any primary wherein a
221 candidate for any one of the judicial offices * * * mentioned in
222 this section is to be nominated who shall deliberately, knowingly
223 and willfully violate the provisions of this section shall forfeit
224 his nomination, or if elected at the following general election by
225 virtue of said nomination, his election shall be void.

226 **SECTION 6.** Section 23-15-975, Mississippi Code of 1972, is
227 amended as follows:

228 23-15-975. As used in Sections 23-15-974 through 23-15-985
229 of this subarticle, the term "judicial office" includes the office
230 of justice of the Supreme Court, judge of the Court of Appeals,
231 circuit judge, chancellor, county court judge, family court judge
232 and justice court judge. All * * * justices and judges, except



233 justice court judges, shall be full-time positions and the
234 justices and judges shall not engage in the practice of law before
235 any court, administrative agency or other judicial or
236 quasi-judicial forum except as provided by law for finalizing
237 pending cases after election to judicial office.

238 **SECTION 7.** Section 23-15-977, Mississippi Code of 1972, is
239 amended as follows:

240 23-15-977. (1) All candidates for judicial office as
241 defined in Section 23-15-975 of this subarticle shall file their
242 intent to be a candidate with the proper officials not later than
243 5:00 p.m. on the first Friday after the first Monday in May prior
244 to the general election for judicial office and shall pay to the
245 proper officials the following amounts:

246 (a) Candidates for Supreme Court judge and Court of
247 Appeals, the sum of Two Hundred Dollars (\$200.00).

248 (b) Candidates for circuit judge and chancellor, the
249 sum of One Hundred Dollars (\$100.00).

250 (c) Candidates for county judge and justice court
251 judge, the sum of Fifteen Dollars (\$15.00).

252 (2) Candidates for judicial offices listed in paragraphs (a)
253 and (b) of subsection (1) of this section shall file their intent
254 to be a candidate with, and pay the proper assessment made
255 pursuant to subsection (1) of this section to, the State Board of
256 Election Commissioners.

257 (3) Candidates for judicial offices listed in paragraph (c)
258 of subsection (1) of this section shall file their intent to be a
259 candidate with, and pay the proper assessment made pursuant to
260 subsection (1) of this section to, the circuit clerk of the proper
261 county. The circuit clerk shall notify the county commissioners
262 of election of all persons who have filed their intent to be a
263 candidate filed with, and paid the proper assessment to, such
264 clerk. Such notification shall occur within two (2) business days
265 and shall contain all necessary information.



266 **SECTION 8.** Section 23-15-1015, Mississippi Code of 1972, is
267 amended as follows:

268 23-15-1015. On Tuesday after the first Monday in November
269 1986, and every four (4) years thereafter and concurrently with
270 the election for representatives in Congress, there shall be held
271 an election in every county for judges of the several circuit,
272 chancery and justice court districts. The laws regulating the
273 general elections shall, except as otherwise provided for in
274 Sections 23-15-974 through 23-15-985, apply to and govern
275 elections of judges of the circuit and chancery courts.

276 **SECTION 9.** The Attorney General of the State of Mississippi
277 shall submit this act, immediately upon approval by the Governor,
278 or upon approval by the Legislature subsequent to a veto, to the
279 Attorney General of the United States or to the United States
280 District Court for the District of Columbia in accordance with the
281 provisions of the Voting Rights Act of 1965, as amended and
282 extended.

283 **SECTION 10.** This act shall take effect and be in force from
284 and after January 1, 2003, or the date it is effectuated under
285 Section 5 of the Voting Rights Act of 1965, as amended and
286 extended, whichever date is later.

